

REPRESENTATIVE FOR PETITIONER:

Debbie Zaninot, Taxpayer

REPRESENTATIVES FOR RESPONDENT:

Julie Minton, Assessor

Reva Brummett, Deputy Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Debbie Zaninot and James Webrand)	Petition No.:	55-009-17-1-5-00625-18
)		
Petitioners,)		
)		
v.)	Parcel No.:	55-10-01-190-002.000-009
)		
Morgan County Assessor,)	County:	Morgan
)		
Respondent.)	Assessment Year:	2017

July 25, 2019

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Debbie Zaninot¹ appealed her 2017 assessment. Because she did not offer probative evidence to show her property’s market value-in-use, she failed to meet her burden of proof.

¹ Although the Form 131 petition lists both Debbie Zaninot and James Webrand as the property owners, only Zaninot signed the petition and appeared at the hearing. For ease of reference, we will refer to the appeal and property as hers alone.

PROCEDURAL HISTORY

2. Zaninot filed a Form 130 petition challenging her assessment. On April 30, 2019, the Morgan County Property Tax Assessment Board of Appeal determined the following value:

Land: \$16,700 Improvements: \$0 Total: \$16,700

3. Zaninot timely appealed to the Board. On May 2, 2019, our designated Administrative Law Judge, Jeremy Owens (“ALJ”), held a hearing on Zaninot’s petition. Neither he nor the Board inspected the property. The following people were sworn-in as witnesses: Zaninot, Morgan County Assessor Reva Brummett, and her deputy, Julie Minton.

4. The parties offered the following exhibits without objection:

Petitioner’s Exhibit 1:	Photograph of parcel under appeal
Petitioner’s Exhibit 2:	Map of Paradise Lake properties
Petitioner’s Exhibit 3:	2018 Form 11 notice for parcel under appeal
Petitioner’s Exhibit 4:	2018 Form 11 notice for neighboring property
Petitioner’s Exhibit 5:	Form 130 petition
Respondent’s Exhibit 1:	Front page of property record cards (“PRCs”) for the parcel under appeal and related parcel owned by Zaninot
Respondent’s Exhibit 2:	Sales disclosure form for parcel under appeal and related parcel owned by Zaninot
Respondent’s Exhibit 3:	Time adjustment worksheet
Respondent’s Exhibit 4:	Local Market Update from Morgan County MIBOR
Respondent’s Exhibit 5a:	Page of PRC for parcel 55-10-01-190-012.000-009
Respondent’s Exhibit 5b:	Page of PRC for parcel 55-10-01-198-002.000-009
Respondent’s Exhibit 5c:	Page of PRC for parcel 55-10-01-178-004.000-009
Respondent’s Exhibit 5d:	Page of PRC for parcel 55-10-01-178-004.001-009
Respondent’s Exhibit 5e:	Page of PRC for parcel 55-10-01-190-005.000-009
Respondent’s Exhibit 5f:	Page of PRC for parcel 55-10-01-190-006.000-009
Respondent’s Exhibit 5g:	Page of PRC for parcel 55-10-01-190-008.000-009
Respondent’s Exhibit 5h:	Page of PRC for parcel 55-10-01-190-001.000-009
Respondent’s Exhibit 6:	Page of PRC for parcel owned by neighbors

5. The record also includes the following: (1) any pleadings, briefs and documents filed in the current appeal; (2) all orders and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

CONTENTIONS

Zaninot's Contentions:

6. The parcel under appeal is part of Paradise Lake subdivision in Martinsville. It has a small patch of grass, a ravine, and a driveway for the house on an adjacent parcel that Zaninot also owns. It is not buildable. When Zaninot bought the house five years ago, she did not know the property included two separate tax parcels. She was told that her property taxes would be around \$600, but they are actually around \$800. *Zaninot testimony; Pet'r Exs. 1-2.*
7. Zaninot believes the parcel under appeal was assessed too high. Her next-door neighbors had two similar lots (but one tax parcel) at the front of their property that were originally assessed for \$22,000. They appealed, and the assessment was reduced to \$6,700, or \$3,350 for each lot. Because her property is basically the same as each of the neighbors' lots, it should be assessed at \$3,350. *Zaninot testimony and argument; Pet'r Exs. 1-5.*

Assessor's Contentions:

8. In 2017, the Assessor changed the influence factor applied to Zaninot's parcel from 32% to 50%. That, in turn, reduced the assessment from \$22,700 to \$16,700. The Assessor used the same base rate and influence factor for the other vacant lots in Paradise Lakes. Although Zaninot's neighbors successfully appealed their assessment in 2016, the circumstances were different. Those lots previously had a structure that had burned down. The Assessor's office was led to believe that there would be significant costs to make the lots buildable again. *Minter testimony; Resp't Exs. 5a-5h, 6.*
9. In any case, the sale price for Zaninot's property as a whole supports the assessment. Zaninot bought the two parcels comprising the property for \$224,125 in April 2014. And the property previously sold for \$210,000 in September 2012. Based on changes in median sale prices reported by the Morgan County Metropolitan Board of Realtors, the

Assessor trended the two sale prices for Zaninot's property to \$244,422 and \$245,522, respectively, as of January 1, 2017. The property's combined 2017 assessment was only \$210,400. *Minter testimony; Resp't Exs. 1-4.*

BURDEN OF PROOF

10. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of the prior year's assessment. I.C. § 6-1.1-15-17.2(b), (d). There is no evidence that Zaninot successfully appealed her 2016 assessment. And the assessment did not increase by more than 5% between 2016 and 2017. That is true regardless of whether we look only at the parcel under appeal or the entire property. Zaninot therefore has the burden of proof.

ANALYSIS

11. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's "true tax value." 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as "market value in use," which it in turn defines as "[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." MANUAL at 2.
12. Parties may offer evidence that is consistent with the DLGF's definition of true tax value. A market-value-in-use appraisal prepared according to the Uniform Standards of

Professional Appraisal Practice often will be probative. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer actual construction costs, sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally accepted appraisal principles. *Id.*; *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties' assessments in property-tax appeals but explaining that the determination of comparability must be made in accordance with generally accepted appraisal and assessment practices).

13. Regardless of the appraisal method used, a party must relate its evidence to the relevant valuation date. *Long v. Wayne Twp. Ass'r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for the year under appeal was January 1, 2017.
14. Zaninot claimed that the parcel under appeal was unbuildable. But she ignored the fact that she bought the parcel as part of a larger property with a house. Even if we were to view the parcel in isolation as a separate unbuildable property, Zaninot did not offer any market-based evidence to quantify how the inability to build on the parcel affected its value.
15. At most, she pointed to the 2016 assessment for the two neighboring lots that she claimed were similar to her parcel. Again, that ignores her use of the parcel as part of a larger property. In any case, while Zaninot compared her parcel to the neighbors' lots in terms of size and proximity, she did not explain how any differences affected value. Indeed the reduced assessment for the neighboring lots stemmed from a settlement on appeal that may have been based on factors unique to those lots. The subdivision's other vacant lots were assessed using the same base rate and influence factor that the Assessor used in valuing Zaninot's parcel.

16. In addition, Zaninot did not attempt to explain how the assessment for the neighboring lots, which was for 2016, related to the value of her parcel as of January 1, 2017. Pointing to the Assessor's trending analysis would not help Zaninot. If we were to credit that analysis, we would find the trended sale price for Zaninot's entire property more compelling than her assessment-comparison evidence for the vacant parcel only.

CONCLUSION

17. Zaninot failed to prove that her property was assessed for more than its true tax value. We therefore order no change to her assessment.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>